

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3401 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
No
2. To be referred to the Reporter or not? No :
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
No
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
No
5. Whether it is to be circulated to the Civil Judge? No :

SATVARA GOPALBHAI DHANABHAI

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 3401 of 1996
MR.PRANAV DESAI FOR MR PRASHANT G DESAI for Petitioner
Ms.HARSHA DEVANI for Respondent No. 1, 2

CORAM : MR.JUSTICE D.C.SRIVASTAVA

Date of decision: 06/10/1999

ORAL JUDGEMENT

1. This petition was admitted on 4.5.1996. It was to be listed for final hearing. In the mean time it appears that Note was submitted by the learned Counsel for the petitioner on 30.9.1999 that suitable orders may be passed in this writ petition in view of Repeal of Urban Land (Ceiling & Regulation) Act, 1976.

2. The prayer of the petitioner in this writ petition is for direction to the State Government to treat the order dated 12.1.1994, Annexure : C to this writ petition, as cancelled. Further prayer in the petition is for a direction to restrain the respondents from interfering with any activity carried on by the petitioner on the land in question. The writ petition arose under the provisions of the Urban Land (Ceiling & Regulation) Act, 1976. When the petition was admitted on 4.5.1996 no interim order was passed by this Court. Now, through this Note and from oral submission of the petitioner's Counsel it appears that the petitioner is alleging possession over the land in question. Learned A.G.P. was granted time to seek instruction whether the Government has taken over possession of the land or not. Today she filed Fax message from the Authorities that the possession has not been taken over by the State Government or by any person duly authorised in this behalf by the State Government. In view of this it is now undisputed that the possession of the land remained with the petitioner.

3. The Principal Act, namely, Urban Land (Ceiling & Regulation) Act of 1976 was repealed by Act No.15 of 1999 which was adopted by the State of Gujarat on 30.3.1999. The provisions of Saving as contained in Section 3(1) of the Repeal Act will in these circumstances not apply to the present case because it is admitted that the possession of the land has not been taken over by the Government. If this is so then the provision for abatement as contained in Section 4 of the Repeal Act will apply. The effect of operation of Section 4 on the facts and circumstances of the case will be that all proceedings including this writ petition which was pending immediately before commencement of the Repeal Act shall abate.

The writ petition, therefore, abates and it is so ordered with no order as to costs.

sd/-

Date : October 06, 1999 (D. C. Srivastava, J.)

sas